

ORGANIZATION FOR THE PROTECTION
AND ADVANCEMENT OF SMALL
TELEPHONE COMPANIES

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EX PARTE PRESENTATION

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

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CC Docket Nos. 90-314 and 93-253

Dear Mr. Secretary:

For some time the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) has held a keen interest in the Federal Communications Commission's (FCC) deliberations over the introduction of Personal Communications Services (PCS) to the American public, as well as the implementation of Congressionally authorized competitive bidding.

As the recognized telecommunications experts in their communities, small and rural telephone companies have been eagerly anticipating the day when they can offer PCS to rural Americans. In fact, in some areas of the country, rural telephone companies may be the only parties willing or able to build viable PCS systems. Therefore, OPASTCO believes that it is vitally important that "spectrum auctions" be crafted in a manner that allows well-qualified companies that may be small, or have modest financial resources, to have a reasonable chance of successfully bidding for a license.

In order to ensure this result, OPASTCO respectfully recommends the following:

First, the FCC should adopt Motorola's suggested spectrum allocation plan for PCS. Motorola has proposed replacing the Commission's current plan, consisting of seven blocks of spectrum in two non-contiguous bands, with a simpler system of six blocks in one contiguous band. Of the six blocks, two would be 30 MHz blocks covering Major Trading Areas (MTA), one would be a 30 MHz block covering either Basic Trading Areas (BTA) or MTAs, and three would be 10 MHz blocks covering BTAs.

OPASTCO believes this proposal satisfactorily addresses several concerns that have been raised over the FCC's current plan. First, it would eliminate concerns over the cost of designing and manufacturing handset equipment to operate in both the "upper" and "lower" bands as envisioned by the current plan. Having all six blocks on one contiguous band will

allow smaller entities that may wish to bid on one of the smaller 10 MHz blocks to benefit from the economies of scale inherent in the research, development, and manufacturing of equipment to operate on the larger 30 MHz blocks. Second, creating a third 30 MHz block instead of a 20 MHz block removes the possible handicap that a 20 MHz licensee may face in the marketplace.

Second, the FCC should create an "Entrepreneurs' Block" to encourage the participation of diverse entities in the PCS marketplace. The Motorola allocation plan creates the basic framework for a set of strong PCS licensees in each market. The Commission's next task must be to ensure that such a group includes diverse entities, including the small businesses, women- and minority-owned businesses, and rural telephone companies that Congress directed the Commission to include.

OPASTCO believes the record indicates that the most viable way to ensure the participation of such entities in a competitive bidding environment is through the use of specially-designated blocks of spectrum. It is OPASTCO's further belief that the best way to target entities requiring such treatment is to examine the size of the company. OPASTCO recommends that the third 30 MHz block be based on BTAs, with the option of combining those BTAs into MTAs as part of the competitive bidding process.

Furthermore, this block should only be available for bidding by small entrepreneurial companies, defined as having less than \$100 million in annual revenue. OPASTCO believes that such an "Entrepreneurs' Block" will properly accommodate the meaningful participation of companies -- such as small and rural telephone companies, but including others -- in the PCS market.

Third, the FCC should define "rural telephone company" as a local exchange carrier with less than \$100 million in annual revenue. OPASTCO believes that such a definition will properly target those locally-owned telephone companies whose service territories are dominated by rural markets. Further, this would correlate to other sections of the Commission's rules. If a revenue-based definition is not acceptable to the FCC, an alternative approach is to define rural telephone companies as having 100,000 access lines or fewer. This will target essentially the same universe of companies.

Fourth, the FCC should ease the PCS cellular eligibility requirements and PCS system build-out requirements for rural telephone companies. Many rural telephone companies will be precluded from participating in the PCS marketplace because of their minority, non-controlling ownership interest in cellular systems. These cellular partnerships were, in fact, encouraged by the Commission at the time, and it is vitally important that they not now be the barrier to rural telephone company participation in PCS.

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OPASTCO recommends that the cellular holdings for rural telephone companies be examined on a company-by-company basis, and if a company holds less than 40 percent ownership in a cellular system, that company is found not to be a cellular carrier. If that company is a participant in a PCS consortium, any holdings that it does have should not be counted toward a cumulative consortium total. If multiple rural telephone company members of a PCS consortium hold interests in the same cellular system, their holdings are totaled for the purposes of comparison to the 40 percent benchmark. A rural telephone company which owns more than 40 percent of a cellular system may bid for PCS blocks as if it were not a cellular carrier if it agrees to adjust its cellular holdings to comply with this rule upon winning the PCS license.

Additionally, given the low population density of rural areas, OPASTCO believes it is necessary to ease the PCS build-out requirements for rural telephone companies. In any event, at a very minimum, the FCC should not link the extension of bidding credits to rural telephone companies' build-out requirements.

Fifth, the FCC should define "small businesses" as those with less than \$40 million in annual revenue. OPASTCO believes that \$40 million in annual revenue is an appropriate definition of small business. Additionally, OPASTCO believes that any rural telephone company with less than \$40 million in annual revenue should also benefit from the bidding preferences extended to small businesses. An example of this is the ability to pay winning bids in installment payments over time. OPASTCO believes this is an important credit to extend to small businesses, and rural telephone companies with less than \$40 million in annual revenue should be extended this preference.

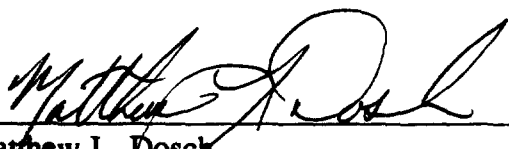
Sixth, consortia controlled by rural telephone companies and/or small businesses should be extended the preferences made available to individual companies that are small businesses and/or rural telephone companies. It is OPASTCO's belief that many small and rural telephone companies will seek to work together to provide PCS services. They should not be penalized for doing so by having important preferences withheld from them.

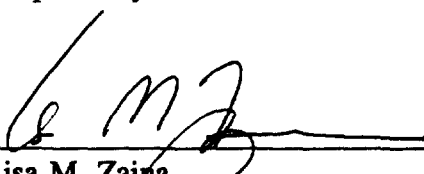
Finally, the preferences extended to rural telephone companies and small businesses should NOT be tied to specific frequency blocks. OPASTCO cannot emphasize enough that in order to be truly beneficial, and to encourage the participation of small and rural telephone companies in the PCS market in a realistic, viable manner, these entities must be able to apply the above-outlined preferences to any PCS license in any spectrum block. Specifically, the creation of an Entrepreneurs' Block should in no way be interpreted to limit the above, or any other preferences, to that block alone. OPASTCO is certain that small and rural telephone companies, and perhaps other designated entity groups, will seek to participate

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in the PCS market in a variety of ways. The Commission's decision should be structured to encourage them to explore the most beneficial option for specific companies, and not mandate a particular option by fiat.

Respectfully submitted,



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